

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-EIGHTH LEGISLATURE

**THIRTIETH LEGISLATIVE DAY
TUESDAY, FEBRUARY 8, 2005**

Senate Chamber

President Risch called the Senate to order at 10:45 a.m.

Roll call showed all members present except President Pro Tempore Geddes and Senators Brandt, Lodge, and Marley, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Jed Bigelow, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 7, 2005, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

Senator Lodge was recorded present at this order of business.

SCR 106

BY AGRICULTURAL AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND
REJECTING A PENDING RULE OF THE IDAHO
DEPARTMENT OF AGRICULTURE PERTAINING TO THE
IDAHO COMMERCIAL FEED LAW.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a pending rule of the Idaho Department of Agriculture pertaining to the Idaho Commercial Feed Law is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the pending rule relating to IDAPA 02.06.02, Section 004, regarding incorporation by reference, adopted as a pending rule under Docket Number 02-0602-0402, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

SCR 106 was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

President Pro Tempore Geddes was recorded present at this order of business.

February 8, 2005

The JUDICIARY AND RULES Committee reports that **S 1095**, **S 1096**, and **S 1097** have been correctly printed.

DARRINGTON, Chairman

S 1095 was referred to the Resources and Environment Committee.

S 1096 and **S 1097** were referred to the State Affairs Committee.

February 7, 2005

The JUDICIARY AND RULES Committee reports out **S 1062** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

DARRINGTON, Chairman

There being no objection, **S 1062** was referred to the Fourteenth Order of Business, General Calendar.

February 7, 2005

The JUDICIARY AND RULES Committee reports out **S 1064** and **S 1067** with the recommendation that they do pass.

DARRINGTON, Chairman

S 1064 and **S 1067** were filed for second reading.

February 8, 2005

The HEALTH AND WELFARE Committee reports out **S 1078** and **S 1090** with the recommendation that they do pass.

COMPTON, Chairman

S 1078 and **S 1090** were filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

February 7, 2005

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following Senate Bills, to wit:

S 1024, S 1025, S 1027

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Senate advanced to the Ninth Order of Business.

Messages from the House

February 7, 2005

Mr. President:

I transmit herewith **H 27, H 28, H 29, H 31, HCR 6, H 22, H 24, H 46, and H 47** which have passed the House.

JUKER, Chief Clerk

H 27, H 28, H 29, H 31, HCR 6, H 22, H 24, H 46, and H 47 were filed for first reading.

February 7, 2005

Mr. President:

I return herewith Enrolled **S 1026** and **S 1029** which have been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1026** and **S 1029** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

Senator Brandt was recorded present at this order of business.

S 1098

BY RESOURCES AND ENVIRONMENT COMMITTEE AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-701, IDAHO CODE, TO PROVIDE AN EXCEPTION TO SPECIFIED LICENSE AND PERMIT REQUIREMENTS FOR CERTAIN PRIVATELY OWNED ZOOS.

S 1099

BY RESOURCES AND ENVIRONMENT COMMITTEE AN ACT

RELATING TO THE SALE OF TIMBER ON STATE LANDS; AMENDING SECTION 58-406, IDAHO CODE, TO REVISE PROVISIONS RELATING TO VERY SMALL SALES OF TIMBER.

S 1100

BY JUDICIARY AND RULES COMMITTEE AN ACT

RELATING TO SENTENCING IN CAPITAL CASES; AMENDING SECTION 19-2515, IDAHO CODE, TO REVISE LANGUAGE APPLICABLE TO STATUTORY AGGRAVATING CIRCUMSTANCES RELATED TO A DEFENDANT'S CONDUCT.

S 1101

BY JUDICIARY AND RULES COMMITTEE AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING CHAPTER 27, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-2727, IDAHO CODE, TO PROVIDE DUTIES OF RETAILERS SELLING OR DISTRIBUTING PRODUCTS CONTAINING PHENYLPROPANOLAMINE OR PSEUDOEPHEDRINE OR THEIR SALTS, ISOMERS OR SALTS OF ISOMERS, TO PROVIDE DUTIES OF THE BOARD OF PHARMACY, TO PROVIDE EXEMPTIONS, TO PROVIDE RULES, TO PROVIDE MAXIMUM AMOUNTS THAT MAY BE ACQUIRED IN A THIRTY DAY PERIOD, TO PROVIDE THAT A CITY OR COUNTY MAY NOT ADOPT ANY ORDINANCE THAT WOULD IMPOSE CONDITIONS OR REQUIREMENTS MORE STRINGENT OR BROADER IN SCOPE THAN THIS ACT AND TO PROVIDE PENALTIES.

S 1098, S 1099, S 1100, and S 1101 were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 27, H 28, H 29, and H 31, by Revenue and Taxation Committee, were introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

HCR 6, by State Affairs Committee, was introduced, read at length, and referred to the State Affairs Committee.

H 22, H 24, H 46, and H 47, by State Affairs Committee, were introduced, read the first time at length, and referred to the State Affairs Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1038, S 1054, and S 1055, by Judiciary and Rules Committee, were read the second time at length and filed for third reading.

S 1052, by Resources and Environment Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

Senator Marley was recorded present at this order of business.

S 1015 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Jorgenson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Langhorst, Pearce. Total - 2.

Total - 35.

Whereupon the President declared **S 1015** passed, title was approved, and the bill ordered transmitted to the House.

S 1056 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Gannon arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President declared **S 1056** passed, title was approved, and the bill ordered transmitted to the House.

S 1005 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Broadsword arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President declared **S 1005** passed, title was approved, and the bill ordered transmitted to the House.

The President called President Pro Tempore Geddes to the Chair.

S 1006 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Compton arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President Pro Tempore declared **S 1006** passed, title was approved, and the bill ordered transmitted to the House.

S 1007 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Coiner arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--Langhorst. Total - 1.

Absent and excused--Darrington. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1007** passed, title was approved, and the bill ordered transmitted to the House.

S 1023 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Goedde arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President Pro Tempore declared **S 1023** passed, title was approved, and the bill ordered transmitted to the House.

H 12 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President Pro Tempore declared **H 12** passed, title was approved, and the bill ordered returned to the House.

H 13 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Corder arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President Pro Tempore declared **H 13** passed, title was approved, and the bill ordered returned to the House.

The President returned to the Chair.

H 15 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Langhorst arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President declared **H 15** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Stegner, granted by unanimous consent, **S 1030** retained its place on the Third Reading Calendar.

On request by Senator Little, granted by unanimous consent, **H 2** retained its place on the Third Reading Calendar for one legislative day.

H 3 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Compton arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President declared **H 3** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:05 p.m. until the hour of 11:15 a.m., Wednesday, February 9, 2005.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary